IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12099 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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JAGDISHBHAI H BHATT

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 12099 of 2000

MR BP GUPTA for Petitioner No. 1

MS RV ACHARYA Ld. AGP for Respondent No. 1

MR MI PATEL for Respondent No. 2-4

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 30/08/2001

ORAL JUDGEMENT

Rule. Ms RV Acharya learned AGP waives service of rule on behalf of respondent no. 1 and Mr JM Patel for Mr MI Patel learned advocate waives service of rule on behalf of respondents no. 2 to 4. With the consent of

learned advocates, this matter is taken up for final hearing today.

Heard the learned advocates appearing for the parties. Mr. Gupta learned counsel for the petitioner has taken me through the contents of the petition and the nature of the reliefs prayed for. He mainly relies upon the document Annexure-E page 20, wherein respondentPadra Municipality has accepted that Rs. 1,71,937/ is to be paid to the present petitioner as dues. The petitioner was serving as accountant with Padra Municipality and he has been retired from the service. The amount calculated by the Municipality is on the strength of the Government G.R. dated 31.1.1992. This amount was to be paid within two months frm 7.6.2000 and the grievance of the petitioner is that till the date he has not been paid anything. On other hand, learned counsel appearing for the respondent-Municipality says that municipality has to recover Rs. 51,940/ from the total dues. According to Mr. Gupta, this amount should not be recoverred by way of arrears of rent and the petitioner should be treated at par with other employees of the municipality and the petitioner has applied for that purpose to the municipality. So, it can be said that dispute of payment and recovery of the amount of Rs. 51,940/ is pending with the municipality, hence, municipality can ultimately retain this amount and the same can be disbursed at the conlcusion of the dispute as to the recovery of the arrears of the rent. So, after retaining this amount rest of the amount can be paid to the petitioner at the earliest.

It is contended by the learned counsel appearing for the respondent - municipality that because of financial constraint, the municipality may be permitted to disburse the amount by instalments and the arrears can be cleared within six months from today.

Mr Gupta learned counsel for the petitioner says that he may not be have any objection, if the amount is paid in instalment, but the petitioner must be awarded interest on the retained amount. Where the retirement benefits are not paid in a reasonable period of time this court has awarded interest o such aggrieved employees and the respondent-municipality is directed to clear up the dues with interest at the rate of 12% per annum to the petitioner from 1.6.2000. The respondent-Municipality is therefore, directed to clear up the dues of the petitioner with interest as aforesaid within six months from today.

This petition is disposed of accordingly. Rule is made absolute to the aforesaid extent only with no order as to costs.

(C.K. BUCH, J.)

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